Feb 6 1871
submitted

TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

No. ~~277.~~ 86

JUSTO GARCIA Y LEON, PLAINTIFF IN ERROR,

vs.

MANUEL PIJUAN.

IN ERROR TO THE SEVENTH JUDICIAL DISTRICT COURT OF THE STATE OF LOUISIANA.

FILED NOVEMBER 3, 1869.

Feb 11 1871 Argument

11.

SUPREME COURT OF THE UNITED STATES.

No. 277.

JUSTO GARCIA Y LEON, PLAINTIFF IN ERROR,

vs.

MANUEL PIJUAN.

IN ERROR TO THE SEVENTH JUDICIAL DISTRICT COURT OF THE STATE OF LOUISIANA.

INDEX.

	Original.	Print.
Petition	1	1
Document, (clerk's bill)	5	2
Document, (sheriff's bill)	6	2
Citation to Mr. Justo Garcia y Leon	7	2
Sheriff's return to citation	8	3
Default	9	3
Default set aside	9	3
Exceptions	10	3
Exceptions overruled	11	4
Default	12	4
Order setting default aside	13	4
Answer	14	5
Note of evidence	15	5
Record No. 78, offered in evidence:		
Petition	16	5
Affidavit	20	6
Order	21	7
Bond	21	7
Citation to Joseph Maristany, sr.	23	7
Sheriff's return to citation	24	8
Writ of sequestration	25	8
Sheriff's return to writ	26	8
Motion and order to bond	27	8
Default	28	9
Judgment	29	9
Writ of fieri facias	30	9

	Original.	Print.
Rule and sheriff's return	33	11
Order continuing rule	35	12
Answer of sheriff to rule	35	12
Indorsement, (service accepted)	37	13
Order continuing rule	37	13
Document, (notice of seizure)	38	13
Rule for a new trial	39	13
Sheriff's return to rule	40	14
Order dismissing rule	41	14
(End of Record No. 80.)		
Judgment	42	14
Motion for a new trial	43	15
Sheriff's return to rule	44	15
Order dismissing rule	44	15
Petition for a writ of error	45	15
Indorsement on copy of writ of error, &c., citation, and return	47	16
Bond for writ of error	48	17
Certificate	50	18

1 State of Louisiana, seventh district court for the parish of Orleans.

MANUEL PIJUAN
vs.
JUSTO GARCIA Y LEON. } No. 810.

Petition.—Filed January 15th, 1869.

To the honorable the judge of the seventh district court in and for the parish of Orleans:

The petition of Manual Pijuan, who resides in the city of New
2 Orleans, respectfully represents—

That Justo Garcia y Leon, who also resides in the city, is justly and truly indebted to your petitioner in the full sum of four hundred and thirty-two $\frac{55}{100}$ dollars, exclusive of interest and costs, for this, to wit:

That your petitioner, on or about the 8th day of August, 1868, brought a suit against one Joseph Maristany, sr., in this honorable court, for the sum of three hundred and eighty dollars, with five per cent. interest thereon from the 10th of August, 1868, until paid, and costs of suit; and caused to be sequestered in said suit, by the civil sheriff of the parish of Orleans, the Spanish schooner "Gallego," her tackle, apparel, and furniture, which then belonged to the said Joseph Maristany, senior, and upon which your petitioner had then the mariner's lien and privilege, according to the laws of Louisiana; that said schooner was bonded by the said Maristany, and released by the said sheriff on the 11th of August, 1868, upon the said Maris-
3 tany's giving bond and security in favor of said sheriff for the sum of five hundred and fifty dollars, with said Justo Garcia y Leon as surety, and conditioned as follows, to wit:

"That if the defendant, Joseph Maristany, senior, should not send the above-described property, that is, said schooner, her tackle, apparel, and furniture, out of the jurisdiction of this court, that he would not make an improper use of it; and that he would faithfully present the same in case he should be decreed to restore the same to the plaintiff, or should satisfy such judgment as may be rendered in the suit then pending as above mentioned, then said obligation to be void; or else to remain in full force."

That said forthcoming bond was, the same day, transferred, assigned, and set over by said sheriff to your petitioner; that in due course of law, to wit, on or about the 7th of November following, your petitioner obtained a final judgment against the said Joseph Maristany, senior, for the amount claimed in said suit by your petitioner, with lien
4 and privilege upon the property sequestered; that execution issued thereon soon thereafter; that demand was made of the said Joseph Maristany, senior, by the said sheriff, for the delivery of the said schooner, without any effect; and that said vessel, which was worth fully ten thousand dollars when she was sequestered, soon thereafter sailed for a foreign port, and is now beyond the process of this honorable court.

That your petitioner has now his recourse against the said forthcoming bond, which is forfeited, to be paid the amount of his judgment aforesaid, which, together with the clerk's and sheriff's costs, amounts to the aforesaid sum of [of] four hundred and thirty-two dollars and fifty-five cents, ($432 55,) exclusive of interest and costs, as the whole

will more fully appear, together with all other necessary particulars from the case of Manuel Pijuan vs. Joseph Maristany, senior, known on the docket of this honorable court as suit No. 78, and the two certificates of costs hereto annexed, and made part of this petition; and that, although often amicably demanded, the defendant, Justo Garcia y
5 Leon, has failed and heretofore neglected to pay said judgment, interest, and costs.

Wherefore your petitioner respectfully prays that the said Justo Garcia y Leon, who resides in this city, be cited to appear and answer this petition; and that after due proceedings had, there be judgment in favor of your petitioner against said Justo Garcia y Leon, defendant herein, for the aforesaid sum of four hundred and thirty-two dollars and fifty-five cents, ($432 55,) with five per cent. interest thereon from the 10th of August, 1868, until paid, and costs of suit; and your petitioner prays for general relief; and as in duty bound, &c.

(Signed) SAMBOLA & DUCROS, *Att'ys.*

Document annexed to and filed with the petition.—Clerk's bill.

The State of Louisiana, seventh district court for the parish of Orleans.

MANUEL PIJUAN
vs. } No. 78.
JOSEPH MARISTANY, SR.

6 I hereby certify that the taxed costs in this case amount to twenty-six $\frac{30}{100}$ dollars.

Clerk's office, this 13th January, 1869.

(Signed) H. J. DUSSOR, *D'y Clerk.*

$26\frac{30}{100}$.—Sambola & Ducros, attorneys.

NEW ORLEANS, 186 .

Received payment.

Document annexed to and filed with the petition.—Sheriff's bill.

——— ———, attorney.

SHERIFF'S OFFICE, *Parish of Orleans:*

No. 78.—7th district court for the parish of Orleans.

MANUEL PIJUAN
vs. }
JOS. MARISTANY, JR.

7 I do hereby certify that the sheriff's fees in this case amount to twenty-three dollars and 25 cents.

Sheriff's office, this 13th day of January, 1869.

(Signed) PAUL T. ABADIE, *Deputy Sheriff.*

Received payment. ——— ———, *Deputy Sheriff.*

Citation to Mr. Justo Garcia y Leon.

State of Louisiana, seventh district court for the parish of Orleans, in the city of New Orleans.

MANUEL PIJUAN
vs. } No. 810.
JUSTO GARCIA Y LEON.

8 Mr. JUSTO GARCIA Y LEON, *of New Orleans:*

You are hereby summoned to comply with the demand contained

in the petition, of which a copy accompanies this citation, or deliver your answer to the same in the office of the clerk of the seventh district court for the parish of Orleans, in ten days after the service hereof.

Witness the Honorable Thomas Wharton Collens, judge of the said court, the 15th day of January, in the year of our Lord 1869.

(Signed) A. D. BERNOUDY, *Clerk.*

Sheriff's return to citation.

Received January 15th, 1869, and on the 16th day of same month and year served copy of the within citation and accompanying petition personally on Justo Garcia y Leon, defendant herein.

Ret'd same day.

(Signed) PHIL. LACOSTE, *D'y Sh'ff.*

9 *Default.—Extract from the minutes of Thursday, January 28th, 1869.*

Seventh district court for the parish of Orleans.

Present: the Honorable T. Wharton Collens, judge.

MANUEL PIJUAN
vs.
JUSTO GARCIA Y LEON. } No. 810.

On motion of Sambola and Ducros, attorneys for the plaintiff in this case, upon showing to the court that the defendant therein has failed to answer, though duly cited, it is ordered that judgment by default be entered against him in said case.

Default set aside.—Extract from the minutes of Saturday, 30th January, 1869.

10 Seventh district court for the parish of Orleans.

Present: the Honorable T. Wharton Collens, judge.

M. PIJUAN
vs.
J. GARCIA Y LEON. } No. 810.

On motion of Hyman Wallace and Handlin, attorneys for the defendant in this case, and upon filing pleas to the jurisdiction of this court, ratione materiæ, it is ordered that the judgment by default entered in this case be set aside.

Exceptions.—Filed January 30th, 1869.

Seventh district court for the parish of Orleans.

MANUAL PIJUAN
vs.
J. GARCIA Y LEON. } No. 810.

11 And now comes the defendant and excepts to the plaintiff's action, and says that the same is based on an admiralty bond, in

a proceeding in rem, over which this court has no jurisdiction ratione materiæ, and that said bond was taken coram non judice, and is void.

Wherefore he prays to be hence dismissed with costs, and for general relief.

(Signed) HYMAN, WALLACE & HANDLIN,
Attorneys for Defendant.

Exceptions overruled.—Extract from the minutes of Saturday, 20th February, 1869.

Seventh district court for the parish of Orleans.

Present: Hon. T. Wharton Collens, judge.

MANUEL PIJUAN
vs.
JUSTO GARCIA Y LEON. } No. 810.

12 The exception in this cause came on to-day for trial.

Present: P. A. Ducros, jr., for plaintiff.
" Hyman, for defendant.

When, after hearing pleading, evidence, and counsel, the court considering the law and evidence to be with the plaintiff, it is adjudged and decreed that said exception be overruled with costs.

Default.—Extract from the minutes of Wednesday, 24th of February, 1869.

Seventh district court for the parish of Orleans.

Present: Hon. T. Wharton Collens, judge.

MANUEL PIJUAN
vs.
JUSTO GARCIA Y LEON. } No. 810.

13 In this case, on motion of counsel for plaintiff, upon showing to the court that the exceptions therein filed by defendant in said case were overruled; that the legal delays have elapsed; and that he has failed to file answer, it is ordered that judgment by default be entered against said defendant in said case.

Order setting default aside.—Extract from the minutes of Friday, 26th February, 1869.

Seventh district court for the parish of Orleans.

Present: Hon. T. Wharton Collens, judge.

MANUAL PIJUAN
vs.
JUSTO GARCIA Y LEON. } No. 810.

14 On motion of Hyman, Wallace & Handlin, attorneys for the defendant in this case, it is ordered that the judgment by default herein be set aside, and the defendant's answer in said case now filed.

Answer.—Filed Febr'y 26th, 1869.

Seventh district court for the parish of Orleans.

PIJUAN
vs.
GARCIA Y LEON. } No. 810.

And now comes the defandant, and for answer pleads the general denial; and that the bond sued on is null; that this court has no jurisdiction ratione materiæ, and has been enjoined by the U. S. circuit court for proceeding contrary to law.

Wherefore defendant refuses to defend himself further before this court, and files this as an answer.

15 (Signed) HYMAN, WALLACE & HANDLIN,
Att'ys for Defendant.

Note of evidence.—Filed March 8th, 1869.

In seventh district court, &c., March 8th, 1869.—On trial this day.

MANUEL PIJUAN
vs.
JUSTO GARCIA Y LEON. } No. 810.

Counsel for plaintiff offers in evidence the record of suit No. 78 of the docket of this court; also the bond taken and the sheriff's return.

Mr. , witness for plaintiff, sworn and examined as to the value of the schooner "Gallego," sequestered.

16 Record of suit No. 78, offered in evidence by plaintiff in the note of evidence.

Petition—Filed August 10th, 1868.

Seventh district court for the parish of Orleans.

MANUEL PIJUAN
vs.
JOSEPH MARISTANY, SENIOR. } No. 78.

To the honorable the seventh district court of the Parish of Orleans:

The petition of Manuel Pijuan, temporarily residing in the city of New Orleans, respectfully represents—

That Joseph Maristany, senior, who resides in this city, is justly and truly indebted to your petitioner in the full sum of two hundred
17 and fifty-five dollars in gold, or three hundred and eighty-three dollars in United States treasury notes, with five per cent. interest thereon from the 10th day of August, 1868, until paid, and costs of suit, for this, to wit: That your petitioner, who is a sea captain by profession, was engaged by the said Maristany in the port of Havana, on or about the 12th of June, 1868, to take charge of the Spanish schooner "Gallego," belonging to the defendant and bound for this port and back again, for and in consideration of the monthly salary or wages of one hundred dollars in gold, which were a reasonable compensation for the services

to be performed by your petitioner; that said schooner started from the port of "Havana" on the seventh day of July following, and arrived at this port on or about the 24th of the same month and year; that your petitioner has faithfully performed his duty as master of said schooner, and was ready and willing to comply with his contract and carry back
18 said vessel as master thereof, to the port of "Havana," as he had agreed and bound himself to do, but that the said defendant, far from performing his part of the contract, without any reason, and without your petitioner's consent, discharged your petitioner a few days ago, and forbade him to remain on board and continue his functions of master of said schooner; and that the defendant, by this open and active violation of his contract toward your petitioner, is liable in damages to your petitioner; that your petitioner has already incurred, in consequence of this breach of contract, an expense of twenty-five dollars, at least, for board and lodging here in this city, and will have to pay the sum of thirty dollars in gold, at least, for his passage back to Havana; that the amount actually due your petitioner by the defendant, and for the payment of which your petitioner has a lien and privilege upon said schooner, her tackle, apparel, and furniture, and the proceeds of the sale thereof, is therefore the aforesaid sum of two hundred and fifty-five dollars
19 in gold, or three hundred and eighty-three dollars in United States currency; and that although often amicably demanded, the defendant has neglected and failed to pay said debt. Wherefore your petitioner respectfully prays that the defendant be cited to appear and answer this petition, and that after due proceedings had, there be judgment in favor of your petitioner and against said defendant for the aforesaid sum of two hundred and fifty-five dollars in gold, or three hundred and eighty-three dollars in United States Treasury notes, with five per cent. interest thereon from the 10th of August, 1868, until paid, and costs of suit, together with the sailor's lien and privilege upon the said schooner, her tackle, apparel, and furniture, sequestered in this case, or on the proceeds of the sale thereof; and your petitioner prays for general relief, and as in duty bound, &c.

(Signed) SAMBOLA & DUCROS, *Att'ys.*

20 *Affidavit.—Filed August 8th*, 1868.

Manuel Pijuan, being duly sworn, deposes and says, that Joseph Maristany, senior, is justly and truly indebted unto affiant in the full sum of two hundred and thirty-six dollars and sixty-six cents in gold, exclusive of interest and costs, for one month and twenty-six days wages due affiant for services just performed as master or captain on board the Spanish schooner "Gallego," from "Havana" to this port, at the rate of one hundred dollars a month, and for damages; that the said Joseph Maristany, senior, is the owner and proprietor of said vessel; that for the payment of said wages and damages now due and owing, affiant has a lien and privilege on said vessel, and affiant apprehends that said vessel will be removed out of the State of Louisiana before he can have the benefit of his said lien and privilege; and that,
21 in fact, affiant knows that said schooner will start this evening for the port of Havana, unless prevented by an order of court: Wherefore affiant prays for a writ of sequestration, upon giving bond as required by law.

(Signed) MANUEL PIJUAN.

Sworn to and subscribed before me this the 8th day of August, 1868.

(Signed) GASP. JAMES, *Dy Clk.*

Order.

Let a writ of sequestration issue in this case as prayed for and according to law, upon plaintiff giving bond, with good and solvent security, conditioned as the law directs, in the sum of five hundred and fifty dollars.

New Orleans, 8th August, 1868.

(Signed) T. WHARTON COLLENS, *Judge.*

Bond.—Filed August 8th, 1868.

22 Know all men by these presents, that we, Manuel Pijuan as principal, and Thomas Jorda as security, of the city of New Orleans and State of Louisiana, are held and firmly bound, Joseph Maristany, senior, et als., in the sum of five hundred and fifty dollars lawful money of the United States of America, to be paid to the said Joseph Maristany, senior, & al., their heirs, executors, administrators, and assigns; for which payment, well and truly to be made, we bind ourselves, and each of us by himself, and each of our heirs, executors, administrators, firmly by these presents, sealed with our seals and dated the 8th of August, in the year of our Lord 1868.

Whereas the said Manuel Pijuan has this day presented a petition to the honorable the seventh district court for the parish of Orleans, praying a writ of sequestration:

Now the condition of the above obligation is such, that we, the
23 above-bound Manuel Pijuan and Thomas Jorda, will well and truly pay to the said Joseph Maristany, senior, et als., the defendant in said sequestration, all such damages as they may recover against us, in case it should be decided that the sequestration was wrongfully obtained.

(Signed) MANUEL PIJUAN. [L. S.]
(Signed) THOS. JORDA. [L. S.]

Signed, sealed, and delivered in the presence of—
(Signed) GASP. JAMES.

Citation.

State of Louisiana, seventh district court for the parish of Orleans, in the city of New Orleans.

MANUEL PIJUAN
vs.
JOSEPH MARISTANY, SENIOR. } No. 78.

24 Mr. JOSEPH MARISTANY, Senior:

You are hereby summoned to comply with the demand contained in the petition, of which a copy accompanies this citation, or deliver your answer to the same in the office of the clerk of the seventh district court for the parish of Orleans, in ten days after the service hereof.

Witness the Honorable Thomas Wharton Collens, judge of the said court, the 10th day of August, in the year of our Lord 1868.

(Signed) G. L. BERNOUDY, *D'y Clerk.*

Sheriff's return.

Received August 11th, 1868, and on the same day served copy of this citation and accompanying petition on Joseph Maristany,
25 senior, defendant herein, by leaving the same on board of the schooner "Allego," in the hands of Pablo Pons, mate of said schooner, whose name and capacity I learned by interrogating him. The service was made in the manner above stated, the defendant herein being captain of said schooner, and having his domicil thereon, but being absent therefrom at the time of service.

Ret'd same day.

(Signed) GEO. B. MAHAN, *D'y Sheriff.*

Writ of sequestration.

State of Louisiana, seventh district court for the parish of Orleans.

MANUEL PIJUAN
vs.
JOSEPH MARISTANY, SENIOR. } No. 78.

The State of Louisiana to the sheriff of the parish of Orleans, greeting:

26 You are hereby commanded, in the name of the State of Louisiana, and of the seventh district court for the parish of Orleans, to sequester and take into your possession and safe-keeping, until the further order of this court, the Spanish schooner "Gallego," her tackle, apparel, &c.

And what you do in the premises, you make return thereof, together with this writ, to our said court, as the law directs.

Witness the Honorable Thomas Wharton Collens, judge of our said court, this 8th day of August, in the year of our Lord one thousand eight hundred and sixty-eight, and in the ninety-third year of the independence of the United States.

[SEAL.] (Signed) GASP. JAMES, *D'y Clerk.*

Sheriff's return to writ.

Received August 8th, 1867, and on the same day seized and
27 took into my possession the schooner "Gallego," her tackle, apparel, furniture, &c., as will more fully appear by reference to the within notice of seizure hereto attached and made part hereof, and subsequently, on the 11th of the same month and year, said seizure was released, defendant furnishing bond, as per within annexed order of court, in the sum of five hundred and fifty dollars, with Justo Garcia y Leon as security.

Order, bond, and writ ret'd same day.

Sh'ff's fees for this writ, $2 00.

(Signed) PAUL T. ABADIE, *D'y Sheriff.*

Motion and order to bond.—Filed August 8th, 1868.

Seventh district court for the parish of Orleans.

MANUEL PIJUAN
vs.
JOSEPH MARISTANY, SENIOR. } No. 78.

28 On motion of L. Lombard, of counsel for defendant, and on

giving the court to understand and be informed, that by of sequestration, issued in the above-styled case, and directe[d] sheriff of the parish of Orleans, at the suit of plaintiff, his, your respondent or defendant's, property, the schooner "Gallego," has been seized and taken possession of by the aforesaid sheriff, to secure and satisfy the pretended claim of plaintiff, amounting to the sum of two hundred and thirty-six dollars and sixty-six cents, for which plaintiff alleges a special lien and privilege on said schooner "Gallego;" and on further showing that he has a right to bond the same, it is ordered by the court that said schooner be released on appearer furnishing bond with good and solvent security in the sum of five hundred and fifty dollars, conditioned as the law requires.

29 *Default.—Extract from the minutes of Wednesday, November 4th, 1868.*

Seventh district court for the parish of Orleans.

Present: Hon. T. Wharton Collens, judge.

MANUEL PIJUAN
vs.
JOSEPH MARISTANY, SR. } No. 78.

On motion of Sambola and Ducros, attorneys for the plaintiff in this cause, and upon showing to the court that the defendant therein, though duly cited, has failed to answer, it is now ordered that judgment by default be entered against him.

Judgment.—Extract from the minutes of Saturday, November 7th, 1868.

Seventh district court for the parish of Orleans.

30 Present: Hon. T. Wharton Collens, judge.

MANUEL PIJUAN
vs.
JOSEPH MARISTANY, SENIOR. } No. 78.

On motion of Sambola and Ducros, attorneys for the plaintiff in this cause, upon producing to the court due proof in support of his demand, and the court considering that the law and evidence are in favor of plaintiff, it is adjudged and decreed that the judgment by default herein entered on the 4th instant be now confirmed, that the plaintiff, Manuel Pijuan, do have and recover of the defendant, Joseph Maristany, senior, the sum of three hundred and eighty-three dollars, with five per cent. interest thereon from the tenth August, 1868, until paid, and costs of suit, with sailor's lien and privilege on the property sequestered herein, or its proceeds.

(Signed on the back of the petition)

T. WHARTON COLLENS, *Judge.*

Writ of fieri facias.

31 State of Louisiana, seventh district court for the parish of Orleans, in the city of New Orleans.

MANUEL PIJUAN
vs.
JOSEPH MARISTANY, SENIOR. } No. 78.

The State of Louisiana to the sheriff of the parish of Orleans, greeting:

We command you, that by seizure and sale of the property, real and

Sheriff's return.

Received August 11th, 1868, and on the same day served copy of this citation and accompanying petition on Joseph Maristany,
25 senior, defendant herein, by leaving the same on board of the schooner "Allego," in the hands of Pablo Pons, mate of said schooner, whose name and capacity I learned by interrogating him. The service was made in the manner above stated, the defendant herein being captain of said schooner, and having his domicil thereon, but being absent therefrom at the time of service.

Ret'd same day.

(Signed) GEO. B. MAHAN, *D'y Sheriff.*

Writ of sequestration.

State of Louisiana, seventh district court for the parish of Orleans.

MANUEL PIJUAN
vs.
JOSEPH MARISTANY, SENIOR. } No. 78.

The State of Louisiana to the sheriff of the parish of Orleans, greeting:

26 You are hereby commanded, in the name of the State of Louisiana, and of the seventh district court for the parish of Orleans, to sequester and take into your possession and safe-keeping, until the further order of this court, the Spanish schooner "Gallego," her tackle, apparel, &c.

And what you do in the premises, you make return thereof, together with this writ, to our said court, as the law directs.

Witness the Honorable Thomas Wharton Collens, judge of our said court, this 8th day of August, in the year of our Lord one thousand eight hundred and sixty-eight, and in the ninety-third year of the independence of the United States.

[SEAL.] (Signed) GASP. JAMES, *D'y Clerk.*

Sheriff's return to writ.

Received August 8th, 1867, and on the same day seized and
27 took into my possession the schooner "Gallego," her tackle, apparel, furniture, &c., as will more fully appear by reference to the within notice of seizure hereto attached and made part hereof, and subsequently, on the 11th of the same month and year, said seizure was released, defendant furnishing bond, as per within annexed order of court, in the sum of five hundred and fifty dollars, with Justo Garcia y Leon as security.

Order, bond, and writ ret'd same day.

Sh'ff's fees for this writ, $2 00.

(Signed) PAUL T. ABADIE, *D'y Sheriff.*

Motion and order to bond.—Filed August 8th, 1868.

Seventh district court for the parish of Orleans.

MANUEL PIJUAN
vs.
JOSEPH MARISTANY, SENIOR. } No. 78.

28 On motion of L. Lombard, of counsel for defendant, and on

giving the court to understand and be informed, that by a writ of sequestration, issued in the above-styled case, and directed to the sheriff of the parish of Orleans, at the suit of plaintiff, his, your respondent or defendant's, property, the schooner "Gallego," has been seized and taken possession of by the aforesaid sheriff, to secure and satisfy the pretended claim of plaintiff, amounting to the sum of two hundred and thirty-six dollars and sixty-six cents, for which plaintiff alleges a special lien and privilege on said schooner "Gallego;" and on further showing that he has a right to bond the same, it is ordered by the court that said schooner be released on appearer furnishing bond with good and solvent security in the sum of five hundred and fifty dollars, conditioned as the law requires.

29 *Default.—Extract from the minutes of Wednesday, November 4th,* 1868.

Seventh district court for the parish of Orleans.

Present: Hon. T. Wharton Collens, judge.

MANUEL PIJUAN
vs.
JOSEPH MARISTANY, SR. } No. 78.

On motion of Sambola and Ducros, attorneys for the plaintiff in this cause, and upon showing to the court that the defendant therein, though duly cited, has failed to answer, it is now ordered that judgment by default be entered against him.

Judgment.—Extract from the minutes of Saturday, November 7th, 1868.

Seventh district court for the parish of Orleans.

30 Present: Hon. T. Wharton Collens, judge.

MANUEL PIJUAN
vs.
JOSEPH MARISTANY, SENIOR. } No. 78.

On motion of Sambola and Ducros, attorneys for the plaintiff in this cause, upon producing to the court due proof in support of his demand, and the court considering that the law and evidence are in favor of plaintiff, it is adjudged and decreed that the judgment by default herein entered on the 4th instant be now confirmed, that the plaintiff, Manuel Pijuan, do have and recover of the defendant, Joseph Maristany, senior, the sum of three hundred and eighty-three dollars, with five per cent. interest thereon from the tenth August, 1868, until paid, and costs of suit, with sailor's lien and privilege on the property sequestered herein, or its proceeds.

(Signed on the back of the petition)

T. WHARTON COLLENS, *Judge.*

Writ of fieri facias.

31 State of Louisiana, seventh district court for the parish of Orleans, in the city of New Orleans.

MANUEL PIJUAN
vs.
JOSEPH MARISTANY, SENIOR. } No. 78.

The State of Louisiana to the sheriff of the parish of Orleans, greeting:

We command you, that by seizure and sale of the property, real and

personal, rights and credits of defendant, in the manner prescribed by law, you cause to be made the sum of three hundred and eighty-three dollars, with five per cent. interest from the 10th August 1868, until paid; and also the sum of eighteen dollars and ten cents costs, as well as your own costs and charges, to satisfy a judgment against the said defendant, in our seventh district court for the parish of Orleans, on the seventh day of November, 1868, in favor of Manuel Pijuan, with sailor's
32 lien and privilege on the property sequestered herein or its proceeds, and how you shall have executed this writ, you make return to our said court in seventy days, as the law directs.

Witness the Honorable Thomas Wharton Collens, judge of said court, this twelvth day of November, in the year of our Lord 1868.

[SEAL.] (Signed) G. L. BERNOUDY,
D'y Clerk.

Sheriff's return.

Received November 13th, 1868. No property found after demand made of defendant and of the attorneys for plaintiff. At the request of plaintiff's attorneys, called upon Jeusto Garcia y Leon, security, to point out property belonging to defendant, which he declared himself unable to do.

Returned Jan'y 22nd, 1869.

(Signed) S. M. BURNETT, *D'y Sheriff.*

33 *Rule.—Filed Nov'b'r 18th*, 1868.

Seventh district court for the parish of Orleans.

MANUEL PIJUAN
vs.
JOSEPH MARISTANY. } No. 78.

On motion of Hyman, Wallace and Handlin, attorneys for Joseph Maristany, and on suggesting to the court that the sheriff of the parish of Orleans has notified defendant that he holds fi. fa. No. 78, for $383 00; fi. fa. No. 79, for $233 00; and fi. fa. No. 80, for $173 00, amounting in the aggregate to $789 00, against defendant, and is about to seize his property:

It is ordered by the court that said sheriff show cause on the 25th November, 1868, at 10 o'clock a. m., why said fi. fa's should not be quashed, and why he should not suspend all proceedings under the same, on the following grounds, to wit:

1st. Because said writs are void on the face of the papers in the
34 record, which show that it is a matter of maritime jurisdiction, over which this court has no jurisdiction, ratione materiæ.

2nd. There is no judgment or judgments against defendant, and said sheriff is a trespasser.

Order continuing rule.—Extract from the minutes of Wednesday, 25th of November, 1868.

Seventh district court for the parish of Orleans.

Present: Hon. T. Wharton Collens, judge.

MANUEL PIJUAN
vs.
JOSEPH MARISTANY, SR. } No. 78.

The rule herein taken on the 18th instant, in behalf of Joseph Maris-

tany, on the sheriff, was called up to-day—W. W. Handlin, for
35 plaintiff in rule; J. K. Dick, representing the sheriff—when, after hearing pleading and parties, it is ordered that the same be continued to the 3d December next, at 10 a. m.

Answer of sheriff to rule.—Filed November 30th, 1868.

Seventh district court.

MANUEL PIJUAN—78,
JUAN OLIVER—79,
MARCIANO GALCERANO—80,
vs.
JOSEPH MARISTANY.

Thos. L. Maxwell, sheriff, made defendant herein, excepts to any proceedings against him by rule or otherwise, on the grounds that he is no party in interest to said suits, or the writs therein issued; that the plaintiffs above named caused the said writs to issue, and are the only parties in interest, and should have been made parties to the rule.
36 He denies having committed any act of trespass, and if he has done any act in the premises, it was done in obedience to orders from this court, and pursuant to law regulating sheriffs' duties relative to writs of fi. fa.; wherefore he prays that said rule, so far as it tends to make him a party to any litigation whatever, be dismissed; and that plaintiffs above named be notified of these proceedings and made parties thereto; and that they have notice of trial of rule, viz: for December 3d, 1868, at 10 o'clock a. m.

(Signed) THOS. L. MAXWELL, *Sheriff*,
Per J. F. DICK, *Deputy*.

Order continuing rule.—Extract from the minutes of Thursday, 3d December, 1868.

Seventh district court for the parish of Orleans.

37 Present: Hon. T. Wharton Collens, judge.

MANUEL PIJUAN
vs.
JOS. MARISTANY, SR. } No. 78.

The rule herein by Joseph Maristany on the sheriff, was called up this day—W. W. Handlin for plaintiff in rule; J. K. Dick for the sheriff; P. A. Ducros, jr., representing plaintiffs in suit—and it appearing that the plaintiff in this case, who is made party to said rule, has not been notified thereof, it is ordered that said rule be continued till Thursday, 10th instant, at 10 a. m., and that the plaintiff in this case be served with a copy of the rule, the answer thereto, and of this order.

Document.—Notice of seizure.—Filed December 10th, 1868.

Nos. 78, 79, 80. NEW ORLEANS, *Aug. 8th*, 1868.

38 STATE OF LOUISIANA, *Sheriff's Office, Parish of Orleans:*

In the 7th district court for the parish of Orleans.

MANUEL PIJUAN
vs.
JOSEPH MARISTANY, SENIOR.

JUAN OLIVER
vs.
SAME.

MARIANO GALCERANO
vs.
SAME.

To Joseph Maristany, senior:

Please to take notice that by virtue of three writs of sequestration issued in the above-mentioned suits, I have seized, and taken into my possession, the Spanish schooner "Gallego," her tackle, apparel, &c., &c.

(Signed) S. M. BURNETT,
D'y Sheriff.

Order dismissing rule.—Extract from the minutes of Thursday, December 10th, 1868.

39 Seventh district court for the parish of Orleans.

Present: Hon. T. W. Collens, judge.

MANUEL PIJUAN
vs. No. 78.
JOSEPH MARISTANY, SR.

The rule taken to quash the writ of fieri facias, issued in this case, came up to-day for trial.

Present: W. W. Handlin, for plaintiff in rule.
" J. K. Dick, deputy, representing the sheriff.
" P. A. Ducros, for the other def'ts in rule.

When, after hearing pleadings, evidence, and arguments of counsel, and for the reasons assigned in the written opinion of the court, delivered and filed in the case of John Ruth & Co. vs. Steamboat J. D. Perry, &c., No. 117, on the docket of this court, it is adjudged and decreed that said rule be dismissed, with costs.

40 *Bond given to release the sequestration.—Filed August 12th, 1868, and offered in evidence by plaintiff in the note of evidence.*

Know all men that we, Joseph Maristany, senior, and Justo Garcia y Leon as security, are held unto Thomas L. Maxwell, sheriff of the parish of Orleans, in the State of Louisiana, in the penal sum of five hundred and fifty dollars, ($550 00,) for the payment whereof to the said Thomas L. Maxwell, sheriff, his executors, administrators, or assigns, we jointly and severally bind ourselves, our heirs, executors, and administrators, respectively by these presents, as witness our respective names hereunto affixed at New Orleans, this 11th day of August, in the year eighteen hundred and sixty-eight.

41 Whereas, in and by virtue of a writ of sequestration, issued out of the honorable the seventh district court of New Orleans, at the suit of Manuel Pijuan vs. Joseph Maristany, senior, and numbered 78 on the docket of the said court, and which suit is now pending therein, the following described property, to wit, the schooner "Gallego," her tackle, apparel, furniture, &c., has been seized, taken into custody of the said sheriff, and detained according to law; but the same has been released and delivered to the defendant, upon the appearance

of the defendant in the said suit, and delivering to the said Thomas L. Maxwell, the present obligation:

The condition of which is such that if the said defendant shall not send the above-described property out of the jurisdiction of the court, that he will not make an improper use of it, and that he will
42 faithfully present the same in case he should be decreed to restore the same to the plaintiff, or shall satisfy such judgment as may be rendered in the suit pending as above mentioned, then this obligation to be void; or else to remain in full force.

(Signed) JOSÉ MARISTANY.
(Signed) JUSTO GARCIA Y LEON.

Signed and delivered in the presence of—
(Signed) PAUL T. ABADIE.

Transfer, (on back of bond.)

NEW ORLEANS, *August 11th*, 1868.

STATE OF LOUISIANA, *Parish of Orleans:*

I do hereby transfer, assign, and set over to plaintiff herein all my right, title, and interest in and to the within bond.

(Signed) For THOMAS L. MAXWELL,
Sheriff Parish of Orleans,
Per PAUL T. ABADIE,
D'y Sh'ff.

43 *Rule for a new trial.—Filed Dec'b'r 11th*, 1868.

Seventh district court of the parish of Orleans.

MANUEL PIJUAN & AL.
vs.
JOSEPH MARISTANY.

On motion of Hyman, Wallace and Handlin, attorneys for Joseph Maristany, plaintiff in rule, against the sheriff, to quash the fi. fa's herein as nullities, it is ordered by the court that said sheriff and others, made parties to said rule by him, show cause on Saturday, 19th December, 1868, at 10 o'clock a. m., why a new trial should not be granted on the following grounds:

1st. Because the judgment dismissing said rule is contrary to law and evidence, since the record shows that this is a matter of admiralty jurisdiction, which belongs exclusively to the federal courts, it being for seamen's wages.

44 2nd. Because said judgment overrules and totally ignores the decision of the Supreme Court of the United States, and that also of the supreme court of Louisiana.

Sheriff's return.

Received December 12th, 1868, and on the same day the sheriff of the parish of Orleans accepted service of copy of the within rule, and on the same day served similar copies on J. Oliver, Manuel Pijuan, and M. Galceran, through A. Sambola, their attorney, who accepted service thereof.

Ret'd same day.

(Signed) PAUL T. ABADIE,
D'y Sheriff.

Order dismissing rule.—Extract from the minutes of Saturday, Dec'b'r 19th, 1868.

Seventh district court for the parish of Orleans.

45 Present: the Honorable Thomas Wharton Collens, judge.

MANUEL PIJUAN
vs.
JOS. MARISTANY, SR. } No. 78.

The rule taken in this case for a new trial came on this day—W. W. Handlin for plaintiff in rule, Sambola & Ducros for def'd'ts therein—when after hearing pleadings and argument for the reasons assigned in open court, and the court seeing no error in the judgment rendered, ordered that said rule be dismissed with costs.

End of record No. 78, offered in evidence in the note of evidence.

No. 810 resumed.

Judgment.

46 Seventh district court for the parish of Orleans.

MANUEL PIJUAN
vs.
JUSTO GARCIA Y LEON. } No. 810.

Judgment entered 8th March, 1869.

When after hearing pleadings and evidence, and by reason of the law and evidence being in favor of the plaintiff, it is adjudged and decreed, that there be judgment herein in favor of plaintiff, Manuel Pijuan, vs. Justo Garcia y Leon, for the sum of four hundred and thirty-two and $\frac{55}{100}$ dollars, with five per cent. interest from the 10th of August, 1868, until paid, and costs of suit.

Judgment signed 19th March, 1868.

(Signed) T. WHARTON COLLENS, *Judge.*

Motion for new trial.—Filed March 11th, 1869.

47 Seventh district court for the parish of Orleans.

PIJUAN
vs.
GARCIA Y LEON. } No. 810.

On motion of Hyman, Wallace and Handlin, attorneys for defendant, and on suggesting to the court that the judgment herein is contrary to law and evidence, it is ordered by the court that plaintiff show cause, on the 18th March, 1869, at 10 o'clock a. m., why a new trial should not be granted.

Sheriff's return.

Received March 12th, '69, and on the 13th day of same month and

year served copy of the within rule on Pijuan, plaintiff herein, through Sambola and Ducros, attorneys, by personal service on Ducros, esq., who accepted the service.

Ret'd same day.

(Signed) A. F. LYND, *D'y Sh'ff.*

48 *Order rule dismissed.—Extract from the minutes of Thursday, 18th March, 1869.*

Seventh district court for the Parish of Orleans.

Present: Hon. T. Wharton Collens, judge.

MANUEL PIJUAN *vs.* JUSTO GARCIA Y LEON. } No. 810.

The rule taken in this case for a new trial came on this day—present, Sambola & Ducros. for plaintiff; defendant, and plaintiff in rule, absent and not represented—when after hearing pleadings, and no cause being shown why a new trial should be granted, it is ordered that said rules be dismissed, with costs.

Petition for writ of error.—Filed March 20th, 1869.

49 The seventh district court.

MANUEL PIJUAN *vs.* JUSTO GARCIA Y LEON. } No. 810.

To the Honorable T. Wharton Collens, judge of the seventh district court for the parish of Orleans, State of Louisiana.

Seventh district court for the parish of Orleans.

MANUAL PIJUAN *vs.* JUSTO GARCIA Y LEON. }

The petition of Justo Garcia y Leon respectfully shows and states—

That he was made a party to the above-entitled suit, as security for the forthcoming of the Spanish vessel Gallego, which suit was pending in this court, and that said court is the highest court in said State in which a decision in the said [said] suit could be had.

50 That on the 19th day of March, A. D. 1869, a final judgment was rendered in said suit by the said court, whereby your petitioner, as said party defendant, is aggrieved, and which your petitioner believes to be erroneous.

That in said suit was drawn in question the validity of a statute of the United States, and the decision was against its validity. That in said suit, was drawn in question a title, right, privelege, and immunity claimed under the Constitution, and a statute of the United States, and the decision was against such title, right, privelege, and immunity.

That your petitioner is desirous of having said judgment revised by the Supreme Court of the United States.

Wherefore your petitioner prays that you will allow a writ of error in said suit, returnable before the said Supreme Court of the United States on the first day of its next term.

(Signed) HYMAN, WALLACE & HANDLIN,
Attorneys for Justo y Garcia. Leon.

51 THE UNITED STATES OF AMERICA, *Louisiana:*

The President of the United States to Manuel Pijuan, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at the city of Washington, on the first Monday of December next, pursuant to a writ of error filed in the clerk's office of the seventh district court for the parish of Orleans, State of Louisiana, wherein Justo Garcia y Leon is plaintiff in error, and you are defendant in error, to show cause, if any there be, why the judgment rendered against the said plaintiff in error, as in said writ of error mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the Honorable ——— ———, Chief Justice of the Supreme Court of the United States, this twentieth day of March, in the year of our Lord one thousand eight hundred and sixty-nine.

[SEAL.] T. WHARTON COLLENS,
Judge of the 7th District Court for the Parish of Orleans.

(Indorsed:) Seventh district court for the parish of Orleans, State of Louisiana. No. 810. Manual Pijuan vs. Justo Garcia y Leon. Citation, to be served on def't in error, Manual Pijuan, an absentee, through P. A. Ducros, att'y.

Sheriff's return.

Received July 16, '69, and on the same day, month, & year served a copy of the within citation on Manuel Pijuan, defendant in error, through P. A. Ducros, attorney for defendant in error, personally, said defendant in error being an absentee.

Ret'd same day.

GEO. H. TARDY, *D'y Sh'ff P. O.*

Sworn to & subscribed before me this 16th day of July, A. D. 1869.
A. D. BERNOUDY,
Clerk 7th Dist. Court for the Parish of Orleans.

UNITED STATES OF AMERICA, *ss:*

The President of the United States to the honorable the judge of the seventh district court for the parish of Orleans, State of Louisiana, greeting:

Because, in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said court, [before] the same being the highest court of law in the State of Louisiana in which a decision could be had in the said suit between Manuel Pijuan and Justo Garcia y Leon, No. 810 of the docket of said court, a manifest error hath happened, to the great damage of the said Justo Garcia y Leon, as by his complaint appears; we, being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and

proceedings aforesaid, with all things concerning the same, Supreme Court of the United States, together with this writ, you have the same at Washington on the first Monday of D[illegible] next, in the said Supreme Court to be then and there held, that, the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error, what of right, and according to the laws and customs of the United States, should be done.

Witness the Honorable Salmon P. Chase, Chief Justice of the said Supreme Court of the United States, this 20th of March, in the year of our Lord one thousand eight hundred and sixty-nine.

[SEAL.]

D. URBAN,
Clerk of the United States Circuit Court
for District of Louisiana.

(Indorsed:) Seventh dist. court. No. 810. Manuel Pijuan vs. Justo Garcia y Leon. Writ of error.

Filed March 20th, 1869.

H. J. DUSSOR, *D'y Clk.*

I allow the writ of error as prayed for.
March 20th, 1869.
(Signed) T. WHARTON COLLENS, *Judge.*

Endorsement on copy of writ of error. Filed March 20th, 1869. Seventh district court, No. 810. Manuel Pijuan vs. Justo Garcia y Leon. Writ of error.

Copy of writ of error lodged in the clerk's office of the seventh district court for the parish of Orleans, State of Louisiana, in pursuance the statute in such cases made and provided, this 20th day of March, 1869.
(Signed) HYMAN, WALLACE & HANDLIN,
Attorneys of Plaintiff in Error.

52 *Bond for writ of error.—Filed March 20th, 1869.*

MANUEL PIJUAN
vs.
JUSTO GARCIA Y LEON. } No. 810.

Know all men by these presents that we, Justo Garcia y Leon as principal, and T. Avendano and José Martinez del Campo as sureties, are held and firmly bound unto Manuel Pijuan in the full and just sum of ($550) five hundred and fifty dollars, to be paid to the said Manuel Pijuan, his certain attorney, executors, administrators, or assigns, to which payment, well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally, by these presents. Sealed with our seals, and dated this 20th day of March, in the year of our Lord one thousand eight hundred and sixty-nine.

Whereas lately, at a seventh district court for the parish of
53 Orleans, State of Louisiana, holding sessions for said parish and State, in a suit depending in said court, wherein Manuel Pijuan was plaintiff, and Justo Garcia y Leon was defendant, and judgment was rendered against the said Justo Garcia y Leon, defendant; and the said Justo Garcia y Leon, defendant, having obtained a writ of error,

Wherefore your petitioner prays that you will allow a writ of error in said suit, returnable before the said Supreme Court of the United States on the first day of its next term.

(Signed) HYMAN, WALLACE & HANDLIN,
Attorneys for Justo y Garcia. Leon.

51 THE UNITED STATES OF AMERICA, *Louisiana:*

The President of the United States to Manuel Pijuan, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at the city of Washington, on the first Monday of December next, pursuant to a writ of error filed in the clerk's office of the seventh district court for the parish of Orleans, State of Louisiana, wherein Justo Garcia y Leon is plaintiff in error, and you are defendant in error, to show cause, if any there be, why the judgment rendered against the said plaintiff in error, as in said writ of error mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the Honorable ——— ———, Chief Justice of the Supreme Court of the United States, this twentieth day of March, in the year of our Lord one thousand eight hundred and sixty-nine.

[SEAL.] T. WHARTON COLLENS,
Judge of the 7th District Court for the Parish of Orleans.

(Indorsed:) Seventh district court for the parish of Orleans, State of Louisiana. No. 810. Manual Pijuan vs. Justo Garcia y Leon. Citation, to be served on def't in error, Manual Pijuan, an absentee, through P. A. Ducros, att'y.

Sheriff's return.

Received July 16, '69, and on the same day, month, & year served a copy of the within citation on Manuel Pijuan, defendant in error, through P. A. Ducros, attorney for defendant in error, personally, said defendant in error being an absentee.

Ret'd same day.

GEO. H. TARDY, *D'y Sh'ff P. O.*

Sworn to & subscribed before me this 16th day of July, A. D. 1869.

A. D. BERNOUDY,
Clerk 7th Dist. Court for the Parish of Orleans.

UNITED STATES OF AMERICA, *ss:*

The President of the United States to the honorable the judge of the seventh district court for the parish of Orleans, State of Louisiana, greeting:

Because, in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said court, [before] the same being the highest court of law in the State of Louisiana in which a decision could be had in the said suit between Manuel Pijuan and Justo Garcia y Leon, No. 810 of the docket of said court, a manifest error hath happened, to the great damage of the said Justo Garcia y Leon, as by his complaint appears; we, being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and

proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington on the first Monday of December next, in the said Supreme Court to be then and there held, that, the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error, what of right, and according to the laws and customs of the United States, should be done.

Witness the Honorable Salmon P. Chase, Chief Justice of the said Supreme Court of the United States, this 20th of March, in the year of our Lord one thousand eight hundred and sixty-nine.

[SEAL.] D. URBAN,
Clerk of the United States Circuit Court
for District of Louisiana.

(Indorsed:) Seventh dist. court. No. 810. Manuel Pijuan vs. Justo Garcia y Leon. Writ of error.

Filed March 20th, 1869.

H. J. DUSSOR, *D'y Clk.*

I allow the writ of error as prayed for.
March 20th, 1869.
(Signed) T. WHARTON COLLENS, *Judge.*

Endorsement on copy of writ of error. Filed March 20th, 1869. Seventh district court, No. 810. Manuel Pijuan vs. Justo Garcia y Leon. Writ of error.

Copy of writ of error lodged in the clerk's office of the seventh district court for the parish of Orleans, State of Louisiana, in pursuance the statute in such cases made and provided, this 20th day of March, 1869.
(Signed) HYMAN, WALLACE & HANDLIN,
Attorneys of Plaintiff in Error.

52 *Bond for writ of error.—Filed March 20th, 1869.*

MANUEL PIJUAN
vs.
JUSTO GARCIA Y LEON. } No. 810.

Know all men by these presents that we, Justo Garcia y Leon as principal, and T. Avendano and José Martinez del Campo as sureties, are held and firmly bound unto Manuel Pijuan in the full and just sum of ($550) five hundred and fifty dollars, to be paid to the said Manuel Pijuan, his certain attorney, executors, administrators, or assigns, to which payment, well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally, by these presents. Sealed with our seals, and dated this 20th day of March, in the year of our Lord one thousand eight hundred and sixty-nine.

Whereas lately, at a seventh district court for the parish of
53 Orleans, State of Louisiana, holding sessions for said parish and State, in a suit depending in said court, wherein Manuel Pijuan was plaintiff, and Justo Garcia y Leon was defendant, and judgment was rendered against the said Justo Garcia y Leon, defendant; and the said Justo Garcia y Leon, defendant, having obtained a writ of error,

and filed a copy thereof in the clerk's office of the said court, to reverse the judgment in the aforesaid suit, and a citation directed to the said Manuel Pijuan, citing and admonishing him to be and appear at a Supreme Court of the United States to be holden at Washington first Monday of December next:

Now, the condition of the above obligation is such, that if the said Justo Garcia y Leon shall prosecute his writ to effect, and answer all damages and costs, if he fail to make his plea good, then the above obligation to be void; else to remain in full force and virtue.

54 (Signed) JUSTO GARCIA Y LEON. [L. S.]
(Signed) T. AVENDANO. [L. S.]
(Signed) JOSÉ MARTINEZ DEL CAMPO. [L. S.]

Sealed and delivered in the presence of ————————.

Bond taken and approved March 20th, 1869.
(Signed) T. WHARTON COLLENS, *Judge.*

Certificate of clerk.

State of Louisiana, seventh district court for the parish of Orleans.

I, A. D. Bernoudy, clerk of the seventh district court for the parish of Orleans, duly commissioned and sworn as such, do hereby certify
55 that the above and foregoing fifty-four(54)pages do contain a full and correct transcript of the record of the case, wherein Manuel Pijuan is plaintiff, and Justo Garcia y Leon is defendant, instituted in this court, and now on the records thereof, under the No. 810.

In testimony whereof I have hereunto set my hand, and affixed the seal of the said court, at the city of New Orleans, on this sixth day of August, in the year of our Lord one thousand eight hundred and sixty-nine, and in the ninety-fourth year of the independence of the United States of America.

[SEAL.] A. D. BERNOUDY, *Clerk.*

Certificate of judge to foregoing clerk's certificate.

I, T. Wharton Collens, sole judge of the seventh district court for
56 the parish of Orleans, do hereby certify that A. D. Bernoudy is clerk of said court, and that the signature "A. D. Bernoudy," to the foregoing certificate, is in the proper handwriting of him, the said clerk; to his official acts as such, full faith and credit are due and owing; and I do further certify that his attestation is in due form of law.

Given under my hand, at the city of New Orleans, on this sixth day of August, in the year of our Lord one thousand eight hundred and sixty-nine.

T. WHARTON COLLENS, *Judge.*

Clerk's certificate to foregoing.

I, A. D. Bernoudy, clerk of the seventh district court for the par-
57 ish of Orleans, duly commissioned and sworn as such, do hereby certify that the Honorable T. Wharton Collens, whose name is signed to the foregoing certificate, is the sole judge of this court; that he is duly commissioned and qualified as such; and I do further certify that said court is a court of record.

In testimony whereof I have hereunto set my hand, and affixed the seal of the said court, at the city of New Orleans, on this sixth day of August, in the year our Lord one thousand eight hundred and sixty-nine, and in the ninety-fourth year of the independence of the United States of America.

[SEAL.] A. D. BERNOUDY, *Clerk.*

(Indorsement on record:) No. 277. Justo Garcia y Leon, plaintiff in error, vs. Manuel Pijuan. Louisiana, 7th district court.
Filed 3d November, 1869.